

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

QUINZELL WOODEN,

Appellant

v.

DIVISION OF EMPLOYMENT SECURITY.

Respondent

DOCKET NUMBER WD72856

DATE: May 24, 2011

Appeal From:

APPEAL FROM THE LABOR AND INDUSTRIAL RELATIONS COMMISSION

Appellate Judges:

Division One

Gary D. Witt, P.J., James Edward Welsh, and Alok Ahuja, JJ.

Attorneys:

Melissa M. Lawyer, St. Joseph, MO

Counsel for Appellant,

Attorneys:

Ninion S. Riley, Jefferson City, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**QUINZELL WOODEN, Appellant, v.
DIVISION OF EMPLOYMENT SECURITY, Respondent**

WD72856

County

Before Division One Judges: Witt, P.J., Welsh, and Ahuja, JJ.

Quinzell Wooden appeals the Labor and Industrial Relations Commission's decision that he is not eligible for unemployment benefits because his employer, The Summit, Inc., discharged him for misconduct connected with work. He claims that the Commission failed to make adequate factual findings as to whether his failure to pick up trash, which resulted in his termination, constituted misconduct connected with work. He also contends that, even if the Commission's findings were adequate, the evidence was insufficient to support the Commission's decision.

REVERSED AND REMANDED.

Division One holds:

For an employee to be disqualified from unemployment benefits on the basis that he was discharged for misconduct connected with work, the employee had to have willfully disregarded the employer's interest or knowingly acted against the employer's interests. The Commission's findings do not indicate whether Wooden's failure to pick up trash constituted culpable or intentional behavior, or whether it was simply an act of negligence, poor workmanship, or lack of judgment. Without any credibility findings or findings of fact concerning Wooden's culpability or intent, we are unable to address Wooden's claim in his second point that the evidence was insufficient to support the Commission's conclusion that his failure to pick up trash constituted misconduct. The record, when viewed in its entirety pursuant to *Hampton v. Big Boy Steel Erection*, 121 S.W.3d 220, 223 (Mo. banc 2003), would support either a finding that he acted with the requisite intent to establish misconduct or that he acted negligently or with poor judgment.

Opinion by James Edward Welsh, Judge

May 24, 2011

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